

## **REMARKS**

The Office Action dated June 24, 2009 has been reviewed and carefully considered. Claim 20 been cancelled. Claims 1-19 remain pending, the independent claims being claims 1 and 19. Reconsideration of the above-identified application, as amended and in view of the following remarks, is respectfully requested.

The examiner has objected to the abstract failing to appear on a separate sheet. In response, applicants enclose herewith such a separate abstract.

Applicants wish to thank the examiner for noting that an IDS was not filed with the Search Report that accompanied the filing of the application materials. This matter is being reviewed, and should applicants feel such an IDS is warranted, it will be subsequently filed.

Claims 2-18 and 20 stand rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In particular, the examiner argues that “[t]he term ‘substantially’ renders the claims indefinite as it is unclear whether the limitation is accomplished or not” (Office Action, para. 4).

Without an express intent to impart a novel meaning to claim terms, an inventor’s claim terms take on their ordinary meaning. Hoganas AB v. Dresser Indus., Inc., 9 F.3d

948, 951, 28 USPQ2d 1936, 1938 (Fed. Cir. 1993); Smithkline Diagnostics, Inc. v. Helena Lab. Corp., 859 F.2d 878, 882, 8 USPQ2d 1468, 1471 (Fed. Cir. 1988); ZMI Corp. v. Cardiac Resuscitator Corp., 844 F.2d 1576, 1579, 6 USPQ2d 1557, 1560 (Fed. Cir. 1988). In this application, the patent discloses no novel use of the word “substantially.” Ordinarily, therefore, “substantially” means “considerable in . . . extent,” American Heritage Dictionary Second College Edition 1213 (2d ed. 1982), or “largely but not wholly that which is specified,” Webster’s Ninth New Collegiate Dictionary 1176 (9th ed. 1983).

Moreover, it should be noted that the application discusses how the term “substantially” relates to the technology encompassed by the invention:

As on an atomic/molecular scale two particles always have non-equal positions, it is clear that substantially separate regions only have a meaning from a macroscopic point of view. First and second particles are in substantially separate regions if e.g. the envelope macroscopically surrounding the first particles is substantially non-coinciding with the envelope macroscopically surrounding the second particles [0016].

In the interests of furthering prosecution, applicants have introduced the term “sub-region” into the claims to replace the phrase “substantially separate regions.” Thus, as depicted in Figs. 2 & 3, there exist sub-regions 20, 25, and 21 of the common region 30 of pixel 2. In light of the above discussion, sub-region 20 is substantially separate from sub-region 21 as the envelope macroscopically surrounding first particles 6 is substantially non-coinciding with the envelope macroscopically surrounding second particles 7.

With the above noted explanations and the amendments to the claims, applicants submit that the reason for the examiner's rejection under 35 USC 112, second paragraph, has been overcome. Applicants respectfully request the rejection be withdrawn.

Claims 1 and 19 stand rejected under 35 USC 102(e) as being anticipated by Machida et al., U.S. Pub. No. 2004/0252361, hereinafter (Machida).

Applicants respectfully disagree with, and explicitly traverse, the examiner's reason for rejecting the claims.

Claim 1, as amended, recites:

An electrophoretic display panel for displaying a picture and subsequently displaying a subsequent picture comprising

- a pixel having
  - an electrophoretic medium comprising first and second charged particles, the first charged particles having a first optical property, the second charged particles having a second optical property different from the first optical property, the first and the second charged particles being able to occupy positions in a common region of the pixel, the common region comprising at least a first sub-region and a second sub-region;
  - an optical state depending on the positions of the particles in the common region, and
- transition control means being able to control a transition of at least a first number of the first particles and at least a second number of the second particles being in respective separate sub-regions of the common region for displaying the picture, to separate sub-regions of the common region for displaying the subsequent picture,

**wherein the transition control means are further arranged to**

**control the first number of the first particles and the second number of the second particles to be in separate sub-regions of the common region during the transition [emphasis added].**

Applicants wish to point out that the motivation and consequences of the emphasized section of the claim above are discussed in the specification at paragraphs [0012] - [0014]:

[0012] It is an object of the invention to provide a display panel of the kind mentioned in the opening paragraph which is able to have an attainable optical state for displaying the subsequent picture which is unequal to the optical state determined by the mixture of the first and the second particles, even if the particles have substantially equal electrophoretic mobilities.

[0013] The object is thereby achieved that the transition control means are further able to control the first number of the first particles and the second number of the second particles to be in separate regions in the common region during the transition.

[0014] As a result, the first number of the first particles and the second number of the second particles are not only in unmixed states for displaying the picture, but the particles are held in unmixed states also during picture update and are therefore able to reach unmixed states for displaying the subsequent picture. **Therefore, the process of mixing and subsequently unmixing the first number of the first particles and the second number of the second particles during picture update taking place in the disclosed electrophoretic display panel, is omitted during picture update in the display panel according to the invention. As a result, the picture update process in the display panel according to the invention is independent from differences in electrophoretic mobilities of the first and the second particles.**

Applicants are aware that the motivation for a claimed invention is of itself irrelevant grounds by which to distinguish prior art. However, this passage demonstrates the functionality that results from the claimed method. Moreover, it makes clear that Machida fails to teach or suggest the claimed invention in that he does not concern himself with this functionality and subsequently does not address the feature of claim 1 that “the transition control means are further arranged to control the first number of the first particles and the second number of the second particles to be in separate sub-regions of the common region during the transition.”

Paragraph 6 of the office action points to Figs. 2-6 and paragraphs 0079-0087 as teaching this feature of the invention. Applicants respectfully disagree, as Figs. 2-6 merely show various viewing states in which certain display colors are attained. Paragraphs 0079-0087 merely describe how applying various voltages to the display's electrodes will attain the resulting colors. These cited passages of Machida fail to address the feature of claim 1 that “the transition control means are further arranged to control the first number of the first particles and the second number of the second particles **to be in separate sub-regions of the common region during the transition.**”

A claim is anticipated only if each and every element recited therein is expressly or inherently described in a single prior art reference. Machida cannot be said to anticipate the present invention, because Machida fails to disclose each and every element recited. As shown, Machida fails to disclose the limitations of “the transition control means are

further arranged to control the first number of the first particles and the second number of the second particles to be in separate sub-regions of the common region during the transition” as is recited in claim 1. Claim 19 also contains this feature and is deemed patentable over Machida for at least the same reasons.

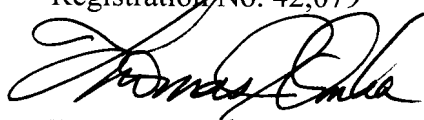
Having shown that Machida fails to disclose each and every element claimed, applicants submit that the reason for the Examiner's rejection of claims 1 and 19 has been overcome and can no longer be sustained. Applicants respectfully request reconsideration, withdrawal of the rejection and allowance of claims 1 and 19.

With regard to claims 2-18, these claims ultimately depend from claim 1, which has been shown to be not anticipated and allowable in view of the cited references. Accordingly, claims 2-18 are also allowable by virtue of their dependence from an allowable base claim.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Dan Piotrowski  
Registration No. 42,079

A handwritten signature in black ink, appearing to read 'Thomas Onka', written over a horizontal line.

By: Thomas Onka  
Attorney for Applicant  
Registration No. 42,053

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**Mail all correspondence to:**

Dan Piotrowski, Registration No. 42,079  
US PHILIPS CORPORATION  
P.O. Box 3001  
Briarcliff Manor, NY 10510-8001  
Phone: (914) 333-9624  
Fax: (914) 332-0615